

**STATE'S WITNESS - CARL CONWAY - (DIRECT)**

1 THE COURT: You may step down. Watch your  
2 step, please. Is she released?

3 MS. BECKER: Yes, your Honor.

4 THE COURT: Mr. Zook, Mr. Crawford.

5 MR. ZOOK: Yes, sir.

6 MR. CRAWFORD: Yes, your Honor.

7 THE COURT: She'll be released on her subpoena.  
8 Call your next witness.

9 MS. BECKER: Thank you. State of Indiana would  
10 call Detective Carl Conway.

11 THE COURT: Raise your right hand, sir.

12 (The witness was sworn.)

13 THE WITNESS: Yes, sir.

14 THE COURT: Take the witness stand, please.

15 **CARL CONWAY**

16 **called on behalf of the State, having been first duly**  
17 **sworn, testified as follows:**

18 **DIRECT EXAMINATION**

19 BY MS. BECKER:

20 Q Good afternoon. Would you please introduce  
21 yourself to our jury?

22 A I'm Carlton Dean Conway.

23 Q Mr. Conway, what do you do for a living?

24 A I am currently employed as a Detective with the  
25 Elkhart City Police Department.

STATE'S WITNESS - CARL CONWAY - (DIRECT)

1 Q How long have you been at the Elkhart City Police  
2 Department?

3 A I've been with Elkhart City since 1998. I was with  
4 South Bend Police Department since 1996 before  
5 that.

6 Q Okay. Before you became a police officer, did you  
7 attend any special schooling?

8 A Yes.

9 Q Where did you go?

10 A Went to the Indiana State Law Enforcement Academy.

11 Q During the academy, did you learn different tactics  
12 as far as policing is concerned and interviewing  
13 tactics?

14 A Yes, ma'am.

15 Q Since that time, have you received additional  
16 training in the areas of interviewing -- well, why  
17 don't you tell us what your training is?

18 A Since back in the detective bureau, I have gone to  
19 two different interview schools. One for basic  
20 interviewing and interrogation also an advanced  
21 interview and interrogation school put on by the  
22 Reid Corporation. And I've also gone down to the  
23 Southern Police Institute which is a homicide  
24 school. It's put on down at the University of  
25 Louisville.

STATE'S WITNESS - CARL CONWAY - (DIRECT)

1 Q A couple of years ago, were you a part of the  
2 homicide team that was formed at the Elkhart Police  
3 Department?

4 A Yes, ma'am, I was.

5 Q During that time, did you have the occasion to take  
6 over the investigation of the murder of Helen  
7 Sailor?

8 A Yes, ma'am, I did.

9 Q What did you do when you first got this case?

10 A When I first got the case, I spent a long duration  
11 of time just reviewing documentation that already  
12 existed from the previous investigator.

13 Q Okay. Who were the previous investigators?

14 A D'Andre Christian was the primary that originally  
15 had the case.

16 Q Was Detective Todd Thayer involved in the original  
17 investigation as well?

18 A Yes. Detective Todd Thayer and D'Andre Christian  
19 they work in -- in conjunction with each other as  
20 part of a homicide investigation before the  
21 homicide unit was organized.

22 Q Now, when you got this case and started looking at  
23 it, at the time that you picked it up, was it  
24 considered a cold case, or was it considered just  
25 one that you needed to look at?

STATE'S WITNESS - CARL CONWAY - (DIRECT)

- 1 A A cold case is when you go ahead and you've  
2 exhausted every avenue, every lead, and then we  
3 also have what we call unresolved cases where there  
4 still may be some work that could be looked into.  
5 At our opinion, it was more of an unresolved case.
- 6 Q Okay. And when you looked at this case, did you  
7 then go back through with a fine tooth comb and  
8 follow up on all of these leads?
- 9 A Yes, ma'am.
- 10 Q All right. Now, after following up on all of these  
11 leads, did there come a time when the attention  
12 shifted to two specific individuals?
- 13 A Yes, ma'am.
- 14 Q Who were those people?
- 15 A Lana Canen and Andrew Royer.
- 16 Q Now, after -- let me ask you this. Did there come  
17 a time when you or a member of your team spoke to  
18 Nina Porter?
- 19 A Yes, ma'am.
- 20 Q Did she provide you information that assisted in  
21 this investigation?
- 22 A Yes, ma'am, she did.
- 23 Q After speaking to Nina and getting that  
24 information, who did you directly go to?
- 25 A Andrew Royer.

STATE'S WITNESS - CARL CONWAY - (DIRECT)

1 Q When you came into contact with Andrew Royer,  
2 explain to us how that came about?

3 A After obtaining the information from Nina Porter,  
4 we collectively thought about it. We decided to go  
5 try to take -- try to interview Andy about the  
6 homicide; and we went to this apartment, introduced  
7 ourselves told him why we wanted to speak to him,  
8 invited him down to the police department. He  
9 willingly accompanied us.

10 Q Who is we?

11 A I'm not quite sure who was with me at the time. I  
12 believe it might have been Lieutenant Posthuma or  
13 Sergeant Bill Wargo. I'm not quite sure.

14 Q And at that time, did the defendant, Andy Royer,  
15 come with you?

16 A Willingly, absolutely.

17 Q All right. Who drove him there?

18 A I did.

19 Q On the way there, did you talk about anything?

20 A No. He was over at the Waterfall Highrise. It's  
21 only about a block and a half from the police  
22 department, relatively a quick drive.

23 Q Okay. Once you got to the police department, what  
24 happened?

25 A We got to the police department. Went ahead and

STATE'S WITNESS - CARL CONWAY - (DIRECT)

1 escorted Andy into one of the interview rooms. At  
2 that time we, like I said, once again, we  
3 reiterated why we were talking to him, advised him  
4 of his Miranda Rights, told him that we were  
5 looking at him in reference to having possible  
6 involvement in Helen Sailor homicide. He waived  
7 his right to writing, and then we proceeded to have  
8 an interview.

9 Q Okay. Let's back up just a little bit. Do you  
10 remember specifically what you told him as far as  
11 why you were talking to him?

12 A I told him that we had obtained information saying  
13 that he was involved with the murder of Helen  
14 Sailor.

15 Q When you told the defendant, Andrew Royer, that,  
16 how did he respond?

17 A He had been -- originally, he was out of denial,  
18 but he was -- wasn't very confrontational about it.  
19 He seemed pretty relaxed about the whole situation.

20 Q You also indicated that you read him his Miranda  
21 Warnings. What are the Miranda Warnings?

22 A Anytime we start an interview with any potential  
23 suspect, we have a legal rights advise form which  
24 we'll go ahead and advise him of the Miranda  
25 Warnings kind of what you see on TV and -- and if

STATE'S WITNESS - CARL CONWAY - (DIRECT)

1           they agree to talk to us, we request a signature,  
2           and then we go ahead and sign as a witness where  
3           it's time and dated.

4       Q   Did you have a conversation with Andrew Royer about  
5           his Miranda Warnings?

6       A   Yes, ma'am.

7       Q   Did he appear to understand you?

8       A   Yes, ma'am, completely.

9       Q   In fact, did you have different conversations with  
10          him.

11                               (The witness coughed.)

12      Q   I'm sorry. Do you need some water?

13      A   No. I'm okay. Thank you.

14      Q   Did you have conversations with him so that you  
15          could get a feel for what his level of  
16          understanding was?

17      A   Yes, ma'am.

18      Q   Okay. Did you believe that he understood the  
19          Miranda Warnings when you provided them to him?

20      A   100 percent.

21      Q   And did he execute that sheet indicating he  
22          understood and was waiving his right?

23      A   Yes, ma'am. He reviewed it. We reviewed it  
24          together. He signed it in agreement to speak with  
25          me.

STATE'S WITNESS - CARL CONWAY - (DIRECT)

1 Q Okay. Now, how did you conduct an interview with  
2 Mr. Royer?

3 (A cell phone rang in the courtroom.)

4 THE COURT: Anybody who has a cell phone, let's  
5 get it turned off right now. Does everybody have their  
6 cell phone or pager turned off?

7 BY MS. BECKER:

8 Q How did you conduct an interview with Andrew Royer?

9 A Well, obviously due to the nature of the topic, we  
10 originally start off what we call a preinterview at  
11 that time. But we'll sit there. We'll just have  
12 casual conversation, just trying to build a base  
13 rapport with the individual, and then gradually  
14 ease our way into the topic at hand.

15 Q Okay. Is this something that takes time to do?

16 A It can take a long time to do.

17 Q What time, if you recall just general, did you  
18 bring Andrew Royer to the police department that  
19 day?

20 A It was -- if I can refer to the Miranda Rights  
21 Form, I believe the time would be on that.

22 Q I'm going show you what's been marked for  
23 identification purposes as State's Exhibit 15. Do  
24 you recognize this?

25 A Yes, ma'am. This is the Miranda Rights Form filled



STATE'S WITNESS - CARL CONWAY - (DIRECT)

1 out by me and Mr. Royer.

2 Q Okay. Does this accurately depict the -- the  
3 Miranda Rights form that you personally executed  
4 with the defendant, Andrew Royer?

5 A Yes, ma'am. This is a carbon copy of it yes,  
6 ma'am.

7 Q What date did that interview occur?

8 A September 3, 2003.

9 Q All right. And what time did that occur?

10 A As written on here, it was 9:34 a.m.

11 MS. BECKER: Okay. Thank you. State would  
12 move to admit what's been marked for identification  
13 purposes as State's Exhibit 15.

14 MR. ZOOK: No objection.

15 MR. CRAWFORD: No objection, your Honor.

16 THE COURT: State's Exhibit No. 15 will be  
17 admitted without objection.

18 MS. BECKER: State declines publication at this  
19 time.

20 BY MS. BECKER:

21 Q So about 9:30 in the morning you go through rights  
22 and then you do this preinterview process.

23 A Yes, ma'am.

24 Q What -- why do you do a pre-interview?

25 A Like I said, just to go ahead and build a rapport

STATE'S WITNESS - CARL CONWAY - (DIRECT)

1 at first, and then obviously due the topic at hand  
2 there is denials. It's kind of almost like a -- I  
3 mean, it's -- it's an interview where we're trying  
4 to go ahead basically sift through, I guess, the  
5 nonsense that's going on. In fact, it can take  
6 quite a long amount of time.

7 Q Okay. Is this recorded either audiotaped or some  
8 other method?

9 A At that time, no, it was not.

10 Q Why not?

11 A Well, that was the procedure that our police  
12 department had established at the time.

13 Q Okay. And how long did it normally take to get  
14 through a pre-interview with an individual who is a  
15 suspect in a homicide?

16 A It -- it -- it -- there's no set time. This  
17 particular one was only a matter of a couple of  
18 hours, two or three hours.

19 Q All right. You started about 9:30. Did you  
20 provide any breaks in there?

21 A Yes, ma'am.

22 Q What kind of breaks.

23 A We brought Mr. Royer food. He was allowed to use  
24 the restroom. He basically -- we made him -- we  
25 made very well aware that he was -- basically any

STATE'S WITNESS - CARL CONWAY - (DIRECT)

1        need -- any need he had he was allowed to let us  
2        know and we would try to accommodate him anyway we  
3        could. He was allowed to have cigarette breaks.

4        Q    During this pre-interview, was there any  
5        question that -- where he was understanding you? I  
6        mean, were you able to communicate with him?

7        A    Absolutely.

8        Q    Okay. During the preinterview, did there come a  
9        time when the defendant, Andrew Royer, began to  
10       make some admissions to you about Helen Sailor's  
11       murder?

12       A    Yes, ma'am.

13       Q    Before we go any further, first of all, do you see  
14       person that you were speaking to that you've  
15       referred to as Andrew Royer in the courtroom today?

16       A    Yes, ma'am.

17       Q    Would you please describe what he is wearing and  
18       where he is seated in the courtroom?

19       A    Dark haired gentleman wearing a cream colored  
20       short-sleeve shirt, glasses sitting just beside  
21       Mr. Crawford.

22                MS. BECKER: Thank you. Would the record  
23       please reflect this witness has identified the defendant,  
24       Andrew Royer.

25                THE COURT: The record will so reflect.

STATE'S WITNESS - CARL CONWAY - (DIRECT)

1 BY MS. BECKER:

2 Q When you were talking to the defendant, were there  
3 any techniques that you have used that you found  
4 helpful in getting the defendant to open up to you?

5 A Just basically it was what we refer to as a  
6 retechnique. It's one of the techniques we learned  
7 during interview school.

8 Q What is that?

9 A Basically, we -- as we talk to the person, we  
10 openly confront them with the situation and the  
11 knowledge that we have in reference to their  
12 participation in the crime, and Mr. Royer was very  
13 susceptible to it, and he openly admitted that he  
14 committed the homicide.

15 Q How much information do you actually give?

16 A Oh, we would try -- we try not to give any at all.

17 Q Okay. When -- help us understand what you're  
18 talking about here. For example, you confront them  
19 with something, but yet what do you hold back?

20 A We basically hold the back primary details. When  
21 we confront them with very vague generalized  
22 information that we have whether we say, you know,  
23 we do have witness statements. There is evidence.  
24 We are very vague and generalized. And what it is  
25 and then when it comes time when they do confess to

STATE'S WITNESS - CARL CONWAY - (DIRECT)

1           them that way it gives them the opportunity to give  
2           us the details of the incident that we'll go ahead  
3           and corroborate that they did actually commit the  
4           crime.

5       Q    Okay. Why would you hold back details? I mean,  
6           that's a way to get them to talk, isn't it?

7       A    Well, it's also a way you can also feed them  
8           information that they can go ahead and either  
9           one -- it can -- they can go ahead and -- they can  
10          go ahead and create their own defense on, or it can  
11          also -- they can also use that as saying that we  
12          forced them to say these things.

13      Q    Okay. In your experience as a detective, do you  
14          give details in your interviews?

15      A    Very limited; very limited.

16      Q    Okay. When you were interviewing the defendant,  
17          Andrew Royer, for first time on September 3, did  
18          you give him any details about Helen Sailor's  
19          murder?

20      A    No. As a matter of fact, in Mr. Royer's case I  
21          made a point not to do it.

22      Q    Why not?

23      A    I mean, I -- we were well aware of Mr. Royer,  
24          and -- and of -- we had limited knowledge about his  
25          mental background. So I definitely wanted to make

STATE'S WITNESS - CARL CONWAY - (DIRECT)

1 a point not to give to Mr. Royer just for the sheer  
2 fact that he might go ahead and dispose of the  
3 concept that we might have been spoon feeding him  
4 information.

5 Q Okay. Now, during this preinterview when the  
6 defendant, Andrew Royer, started giving you details  
7 about the murder of Helen Sailor, what specifically  
8 did he tell you he did?

9 A He gave renditions of it; but for the most part, he  
10 openly admitted that he went into Helen Sailor's  
11 apartment and he strangled her, and then he was  
12 able to give us details about how he committed the  
13 strangulation along with what he did to dispose of  
14 some of the evidence that was -- that we found  
15 during the original investigation that corroborated  
16 what he was saying.

17 Q Okay. Did he demonstrate anything for you?

18 A Yes, ma'am, he did.

19 Q What specifically did the defendant, Andrew Royer,  
20 demonstrate for you?

21 A During the interview when he was talking about how  
22 he strangled Ms. Sailor, I -- I took my tie off,  
23 and I -- and I -- and I asked him, please, show me  
24 how you did it. And without hesitation he reached  
25 forward and acted like he grabbed the collar of my

**STATE'S WITNESS - CARL CONWAY - (DIRECT)**

1 shirt, and he twisted his hand like this. He said  
2 I grabbed her, and I twisted, and I held her like  
3 this.

4 Q Okay. Did he continue to provide details that  
5 were corroborated by other physical evidence?

6 A Yes, ma'am.

7 Q Anything specific?

8 A He talked about the fact that there was a rope that  
9 was used. That was a piece of information that no  
10 one was aware of. We did find marks on  
11 Ms. Sailor's neck that indicated she was strangled  
12 by a rope. He talked about areas of her apartment  
13 that was cleaned up, along with items that were  
14 used from her apartment that no one knew about.

15 MR. CRAWFORD: Objection, your Honor.  
16 Speculation as to what no one knew about who may or may  
17 not have known it.

18 MS. BECKER: I'll rephrase it.

19 THE COURT: Let's, you know, let's stick to  
20 question and answer and probably we won't have that  
21 happen. The objection will be sustained. Rephrase.

22 BY MS. BECKER:

23 Q Did the defendant refer to items of -- or cleaning  
24 up things that were details not released to the  
25 public?

STATE'S WITNESS - CARL CONWAY - (DIRECT)

1 A Yes, ma'am.

2 Q Were there other details that were not released to  
3 the public which the defendant seemed to have  
4 intimate knowledge of?

5 A Yes, ma'am.

6 Q What were those?

7 A Locations within the apartment that were rummaged  
8 through, where some of the evidence was disposed  
9 at.

10 Q Where was that?

11 A Waterfall Highrise has an internal garbage chute  
12 that goes to every floor where you can drop items  
13 down, and they will go down into a main hopper  
14 down -- actually adjoined to the building outside  
15 the parking lot. Some of the items -- some of the  
16 towels that were used to clean up the area of the  
17 scene were actually thrown in the garbage chute,  
18 and we found them in the hopper. He knew this. No  
19 one else -- we did not ever disseminate that  
20 information to him.

21 Q Okay. So there were some details that you kept  
22 completely private.

23 A Yes, ma'am.

24 Q Yet he had intimate knowledge.

25 A Absolutely.



STATE'S WITNESS - CARL CONWAY - (DIRECT)

1 Q Now, by this time, did you figure out you probably  
2 ought to get this on tape?

3 A Yes, ma'am.

4 Q All right. What did you do at that point?

5 A After we -- after we finalized the pre-interview  
6 then I openly told Mr. Royer, pulled out a tape  
7 right in front of us, and we went ahead and  
8 conducted a audiotape confession.

9 Q Did the defendant Andrew Royer's demeanor change  
10 when he saw that tape recorder?

11 A Very much.

12 Q Did you still get -- try to take a statement from  
13 him?

14 A Yes, ma'am.

15 Q I'm going to show you what's been marked for  
16 identification purposes as State's Exhibit 16. Do  
17 you recognize this?

18 A Yes, ma'am.

19 Q What is it?

20 A It is a dubbed copy of the confession statement  
21 taken from Mr. Royer on September 3, 2003.

22 Q Have you had an opportunity to listen to what's  
23 been identified at State's Exhibit 16?

24 A Yes, ma'am.

25 Q Is this an accurate recording of the interview that

STATE'S WITNESS - CARL CONWAY - (DIRECT)

1           you did with Andrew Royer on September 3, 2003?

2           A    For the most part, yes, ma'am.

3           Q    Are there areas that have been blanked out for  
4                evidentiary purposes?

5           A    Yes, ma'am, there has been.

6           Q    All right. Other than that, is it accurate in it's  
7                entirety?

8           A    Yes, ma'am.

9           Q    Thank you.

10           MS. BECKER: State would move to admit what's  
11            been marked for identification purposes as State's  
12            Exhibit 16.

13           MR. CRAWFORD: No objection.

14           MR. ZOOK: No objection, your Honor.

15           THE COURT: Without objection, Exhibit 16 will  
16            be admitted, and I have a question.

17                        (An off-the-record discussion was held  
18                        at the bench.)

19           THE COURT: Proceed. 16 is admitted without  
20            objection.

21           MS. BECKER: State would move to publish  
22            State's Exhibit 16 by playing it for the jury.

23           THE COURT: Any objections?

24           MR. CRAWFORD: No objection, your Honor.

25           MR. ZOOK: No sir.

1 THE COURT: Without objection, State's Exhibit  
2 16 will be published to the jury at this time. Ladies  
3 and gentlemen, we're going to play this tape for you. If  
4 you cannot hear it, get your hand up, let us know, and  
5 we'll make adjustments.

6 (State's Exhibit 16 was published to  
7 the jury.)

8 MR. ZOOK: Your Honor, there's a point  
9 objection that I want to make to the next statement that  
10 the jury will hear on this.

11 THE COURT: The next statement.

12 MR. ZOOK: Yes. Once it finally comes back on  
13 again.

14 THE COURT: Well, the exhibit has been  
15 introduced.

16 MR. ZOOK: I guess I was misunderstood what was  
17 taken out of it.

18 MS. BECKER: Excuse me. May we approach.

19 (An off-the-record discussion was held  
20 at the bench.)

21 THE COURT: The objection will be overruled.

22 MS. BECKER: Thank you.

23 (State's Exhibit 16 continued to be  
24 published to the jury.)

25 MS. BECKER: May we approach.

STATE'S WITNESS - CARL CONWAY - (DIRECT)

1 courtroom and the following  
2 proceedings were had.)

3 THE COURT: Be seated, please. Ms. Becker.

4 MS. BECKER: Thank you, your Honor.

5 (State's Exhibit 16 continued to be  
6 published to the jury.)

7 BY MS. BECKER:

8 Q Detective Conway, why did you end the interview at  
9 that point?

10 A It -- it was very obvious that you could tell that  
11 Mr. Royer was starting to get very fatigued and  
12 just go ahead and for the preservation of his right  
13 (unintelligible) the case we decided to go ahead  
14 and conclude the interview at that point so he  
15 could go ahead and get some rest.

16 Q Did you then allow Mr. Royer to leave?

17 A No. At that point, Mr. Royer was placed under  
18 arrest for murder.

19 Q Then did you allow him to go somewhere so that he  
20 could sleep?

21 A Yes, ma'am. He was -- he was escorted back to the  
22 detention area where he was, I mean, given food,  
23 allowed to sleep.

24 Q Okay. Do you know if he did sleep?

25 A I couldn't testify to that. I assume he did.

STATE'S WITNESS - CARL CONWAY - (DIRECT)

1 Q The next day did you again try to continue your  
2 interview?

3 A Yes, ma'am, I did.

4 Q Did Mr. Royer appear to be refreshed?

5 A Yes, he did.

6 Q Tell us about how he appeared as far as his state  
7 of mind at that point in time?

8 A You could tell he was -- you could tell he was  
9 obviously concerned. He had made comments how he  
10 was afraid of talking to me because he was afraid  
11 that he was gonna' -- cause he knew that he would  
12 get in trouble because from what he had done.

13 We went ahead and talked and kind of rebuild  
14 that rapport again. At one point in time I even  
15 made a point to tell him that, you know, he  
16 would -- he would probably feel better if he would  
17 just be straight with me and come out with  
18 everything.

19 Q At this point in time, did you believe he was  
20 telling you everything that he knew?

21 A No.

22 Q Was that based upon what you already knew about the  
23 scene?

24 A Correct.

25 Q Okay. Even though you know they're not telling you

**STATE'S WITNESS - CARL CONWAY - (DIRECT)**

1           the truth, or what you believe to be the truth, do  
2           you still do what you did by taking that audio  
3           recording so that you could produce that later?

4       A    Yes, ma'am.

5       Q    All right. So the next day, namely, September 4,  
6           did you try to go at him again to try to get the  
7           truth out?

8       A    Yes, ma'am, I did.

9       Q    I'm going to show you what's -- oh, I'm sorry.  
10          Before you began the next interview, did you  
11          Mirandise him once again?

12      A    Yes, ma'am, we did. He was -- submit another form  
13          where he went ahead and signed and waived his  
14          rights again.

15      Q    I'm going he show you what's been marked for  
16          identification purposes as State's Exhibit 17. Do  
17          you recognize this?

18      A    Yes, ma'am. This is a carbon copy of the Miranda  
19          Form dated September 4, 2003, and the time he was  
20          advised was 8:25 a.m.

21      Q    Okay. Is this a true and accurate representation  
22          of the actual Miranda form that -- or a carbon copy  
23          of the Miranda form that you provided to the  
24          defendant, Andy Royer, and had him sign?

25      A    Yes, ma'am.

STATE'S WITNESS - CARL CONWAY - (DIRECT)

1 Q Once again, you did you communicate with him his  
2 rights, and did he waive those rights?

3 A Yes, he did.

4 Q Did he appear to understand you?

5 A 100 percent.

6 MS. BECKER: State would move to admit what's  
7 been marked for identification purposes as State's  
8 Exhibit 17.

9 MR. ZOOK: No objection.

10 MR. CRAWFORD: No objection, your Honor.

11 THE COURT: State's Exhibit No. 17 will be  
12 admitted without objection.

13 MS. BECKER: State declines publication at this  
14 time.

15 BY MS. BECKER:

16 Q Detective Conway, I'm now showing you what's been  
17 marked for identification purposes as State's  
18 Exhibit 18. Do you recognize this?

19 A Yes, ma'am.

20 Q What is it?

21 A This is a dubbed copy of the second confession  
22 given by Mr. Royer on September 4, 2003.

23 Q Okay. Does this -- or have you had an opportunity  
24 to review this audiotape?

25 A Yes, ma'am, I have.

STATE'S WITNESS - CARL CONWAY - (DIRECT)

1 Q Is it an accurate copy of the audiotaped interview  
2 that you did with Andrew Royer on September 4?

3 A Yes, ma'am, it is.

4 MS. BECKER: Thank you. State would now move  
5 to admit what's been marked for identification purposes  
6 as State's Exhibit 18.

7 THE COURT: Mr. Zook.

8 MR. ZOOK: No objection.

9 THE COURT: Mr. Crawford.

10 MR. CRAWFORD: No objection.

11 THE COURT: Exhibit 18 will be admitted without  
12 objection.

13 MS. BECKER: State moves to publish State's  
14 Exhibit 18 by playing the same to the jury.

15 THE COURT: Mr. Zook.

16 MR. ZOOK: No objection.

17 THE COURT: And Mr. Crawford.

18 MR. CRAWFORD: No objection, your Honor.

19 THE COURT: State's Exhibit 18 will be  
20 published without objection.

21 (State's Exhibit 18 was published to  
22 the jury.)

23 MS. BECKER: No further questions at this time.

24 THE COURT: Mr. Zook, cross-examination.

25 MR. ZOOK: Yes, sir.



STATE'S WITNESS - CARL CONWAY - (CROSS)

CROSS-EXAMINATION

BY MR. ZOOK:

Q Detective Conway, you made these two recordings of Andrew, and yet there's nothing leading up to the recordings. I believe you said it's department procedure that you not record anything until the time of the actual statement.

A At the time we have what we call a pre-interview, yes, sir.

Q And it was your procedure that you would not record the pre-interview.

A That's correct.

Q Was that true for other people you talked to as well, no recording the pre-interview?

A At that time, that was the homicide unit's procedure. At the time that we had the Royer case -- that we started the Helen Sailor case, the homicide unit was kind of in it's -- in it's infantile stages, and we were trying to go ahead and set parameters on how we would go and conduct interviews, and how we would go ahead, and the procedures and policies that we would go ahead and have, and at the time this is the way that they went ahead and decided to go ahead and do it.

Q The -- the -- the tape recorder was there

**STATE'S WITNESS - CARL CONWAY - (CROSS)**

1 obviously. Right?

2 A That is correct.

3 Q And you had access to tapes. Is that right?

4 A That is correct.

5 Q But because of department procedure, you  
6 deliberately did not record the pre-interview?

7 A That is correct.

8 MR. ZOOK: All right. No more questions.

9 THE COURT: Mr. Crawford.

10 MR. CRAWFORD: Thank you, your Honor.

11 **CROSS-EXAMINATION**

12 BY MR. CRAWFORD:

13 Q Detective Conway, I believe the first time you  
14 mentioned that you had spoken with Andrew Royer was  
15 on September 3rd of 2003. Is that correct?

16 A No, that was not correct.

17 Q When was the first time you spoke with Mr. Royer?

18 A Actually, the first time I spoke with Mr. Royer was  
19 through the initial investigation during the Helen  
20 Sailor case where I was assisting Detective  
21 Christian in a building canvas.

22 Q And when was that exactly?

23 A I can't remember the exact date, sir.

24 Q Was that early on in the investigation process?

25 A That was within the days following the homicide.

STATE'S WITNESS - CARL CONWAY - (CROSS)

1 Q Would you have made an assessment concerning your  
2 feelings of the mental abilities of Andrew Royer at  
3 the time you initially had come into contact with  
4 him?

5 A At the time I initially came into contact with  
6 Mr. Royer, I was assisting Detective Christian. I  
7 had just came back to the homicide unit.  
8 Correction. Back to the detective bureau, and I  
9 was assisting Detective Christian. She was the one  
10 who spoke to Mr. Royer.

11 Q So were you with Detective Christian when she spoke  
12 to Mr. Royer?

13 A Oh, yes, sir, I was.

14 Q Were you able to observe his demeanor during the  
15 course of those interviews?

16 A We spoke for a few minutes, yes, sir.

17 Q So were you able to get an impression of his mental  
18 abilities at the time you first spoke with him when  
19 you were with Detective Christian?

20 A I knew that there were some mental issues, yes,  
21 sir.

22 Q How much involvement did you have with the case  
23 initially on in its early stages after Ms. Sailor's  
24 body was found?

25 A Not much. Just with the initial 24/48 hours worth

STATE'S WITNESS - CARL CONWAY - (CROSS)

1 of the investigation.

2 Q Do you recall how many people you assisted with in  
3 speaking with or how many you spoke with directly  
4 at the time of your involvement in that first  
5 couple of days?

6 A No, sir. Like I said, I was pretty much just  
7 attached to other detectives assisting them.

8 Q No idea how many you had talked to?

9 A No, sir.

10 Q Did you gather a lot of information during those  
11 first couple of days in your involvement with the  
12 initial investigation?

13 A Like I said, I was assisting other detectives. I  
14 was pretty much kind of, I guess what you say, a  
15 gopher. I was kind of just a person who would be  
16 there to assist the other detectives while they  
17 went ahead and handled the investigation.

18 Q But did you learn things while you were being a  
19 gopher?

20 A Yes, sir.

21 Q Okay. And was it only the first initial couple  
22 days that you were involved in this before you were  
23 later involvement again? When specifically did you  
24 get reinvolved with the investigation?

25 THE COURT: I think we got a two-part question.

STATE'S WITNESS - CARL CONWAY - (CROSS)

1 One at a time.

2 MR. CRAWFORD: I'm sorry. I'll rephrase that.

3 Thank you, your Honor.

4 BY MR. CRAWFORD:

5 Q When did you stop being actively involved initially  
6 in the investigation?

7 A Like I said, it was probably within the first 24/48  
8 hours. I was just extra manpower to assist other  
9 detectives.

10 Q And it was in -- during that course of time when  
11 you spoke with Detective Christian and Andrew  
12 Royer.

13 A Yes.

14 Q When exactly did you get back involved in the  
15 investigation again?

16 A After I was assigned to the homicide unit, the case  
17 was assigned to me for investigation.

18 Q Do you recall specifically when that was?

19 A No, I don't. I know it was within a couple weeks  
20 of us speaking to Royer.

21 Q At the time that you got back involved in this  
22 investigation again, did you thoroughly review the  
23 file including case reports and supplements?

24 A Yes, I did.

25 Q And did you look at all of the same statements that

STATE'S WITNESS - CARL CONWAY - (CROSS)

1           were given by these at the time that you reviewed  
2           the file?

3       A    Yes, I did.

4       Q    Outside of looking at the file, did you talk with  
5           other representatives of the police department and  
6           gather additional information that may not have  
7           been included in the file?

8       A    I did ask if there was anything I needed to know,  
9           yes, sir.

10      Q    Who specifically was involved in the homicide unit  
11           at the time of your initial involvement in this  
12           case?

13      A    At the time it was being lead by Lieutenant Paul  
14           Converse, second in command was Sergeant Bill  
15           Wargo, and then there was Detective Mark Daggy,  
16           Lieutenant Posthuma, and myself.

17      Q    Now, you mentioned when you -- so the second time  
18           that you would have come involved -- come in  
19           contact with Mr. Royer was when you picked him up  
20           to bring him in the Elkhart Police Department. Is  
21           that correct?

22      A    That's correct.

23      Q    And that was on September 2 of 2003. Is that  
24           correct?

25      A    That is correct.

**STATE'S WITNESS - CARL CONWAY - (CROSS)**

1 Q And I believe that you mentioned at that time that  
2 you were accompanied by -- who exactly do you  
3 remember being accompanied by you went to pick up  
4 Andrew Royer?

5 A If I do recall I said I really -- I couldn't  
6 recall.

7 Q Any reason to believe it might not have been  
8 Detective Mark Daggy?

9 A Like I said, I couldn't recall. I knew it was  
10 somebody from the unit. I couldn't tell you for  
11 certain whom.

12 Q Do you recall when you went to pick up Andrew Royer  
13 and questioned him whether he took his medication  
14 with him to the Elkhart Police Department?

15 A No, sir, he did not.

16 Q He did not not take it.

17 A No, sir.

18 Q Do you recall if he -- if you had asked him if he  
19 had taken his medication before going to the  
20 Elkhart Police Department?

21 A No, sir. I do not recall if I did or not.

22 Q Now, I believe you testified that it was  
23 approximately at 9:34 a.m. or somewhere around  
24 there when you gave him his Miranda Warning. Is  
25 that correct?

STATE'S WITNESS - CARL CONWAY - (CROSS)

1 A That is correct.

2 Q And it was after that that you conducted a  
3 interview with him. Is that correct?

4 A That is correct.

5 Q And it wasn't until approximately 1:30 or  
6 1:00 o'clock in the afternoon that the tape  
7 recorder began to role. Is that correct?

8 A That is correct.

9 Q And you mentioned when Mr. Zook was up here that it  
10 was not a departmental policy to record the audio  
11 statements of the accused or alleged accused at the  
12 time of the events when you first spoke with him?

13 A The pre-interview, sir.

14 Q Right. And did you have access to videotape  
15 cameras at that time?

16 A Yes, sir, we did.

17 Q And is that something that you could have used  
18 either at the pre-interview time or at the time the  
19 person was making the statement?

20 A Once again, that was not policy at that time.

21 Q And you've indicated I believe during direct  
22 examination that you did not take any specific  
23 notes at the time during the pre-interview phase.  
24 Is that correct?

25 A No, I didn't state that, sir.



STATE'S WITNESS - CARL CONWAY - (CROSS)

1 Q Did you take specific notes at the time of the  
2 pre-interview stage?

3 A I took notes throughout the duration of our  
4 interview, yes, sir.

5 Q You mentioned, I believe, during direct examination  
6 that you were careful in this particular interview  
7 because you potentially had some issues or knew the  
8 status of Mr. Royer concerning some mental  
9 deficiency problems. Is that correct?

10 A I didn't say I knew the status. I said I knew that  
11 there was obviously something there.

12 Q Potential concerns.

13 A Yes.

14 Q Did you seek to obtain any information concerning  
15 that particular issue before questioning Mr. Royer?

16 A Yes, we did.

17 Q Did you seek to have a case manager or someone  
18 available with him when you questioned him from  
19 Oaklawn?

20 A No, sir, we did not.

21 Q But again, you testified that you were somewhat  
22 aware of his mental status at the time you  
23 questioned him. Correct?

24 A Yes, sir.

25 Q To your knowledge, while he was being housed in the

STATE'S WITNESS - CARL CONWAY - (CROSS)

1 Elkhardt Police Department September 3rd through  
2 September 4th prior to your second interview with  
3 him did, Mr. Royer have his medication?

4 A Yes, sir, he did.

5 Q When specifically do you recall him taking that?

6 A After Mr. Royer was arrested for the murder of  
7 Helen Sailor, we went back -- he gave us permission  
8 to go back to his apartment and obtain his medicine  
9 so he could have it.

10 Q So to your knowledge this would be after the tape  
11 recorded statement. Is that correct?

12 A The first one yes, sir.

13 Q Okay. I believe you mentioned during the course of  
14 direct examination that there appeared at time or  
15 times that Mr. Royer appeared mentally fatigued.

16 A Yes, sir.

17 Q Do you feel that he would appear tired  
18 concentration abilities?

19 A Yes, sir.

20 Q Problems associated with that.

21 A I'm sorry. I don't understand, sir.

22 Q Problems associated with his concentration at one  
23 point in time. Is that correct?

24 A Yes, sir, as well as myself.

25 Q You're not being treated at Oaklawn, are you?